IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4209 of 1989

HON'BLE MR.JUSTICE K.S.JHAVERI

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

LALJIBHAI D PARMAR

Versus

STATE OF GUJARAT

Appearance:

MR ND NANAVATI for Petitioner No. 1

NOTICE SERVED for Respondent No. 1-4

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 05/07/2004

ORAL JUDGEMENT

1. The petitioner is a class IV employee working as Peon in the office of the respondent. In this petition the petitioner has prayed for a direction restraining the respondents from terminating his services for four months i.e. during monsoon season.

2. Learned counsel for the petitioner has fairly

submitted that the petitioner has raised an identical question which has been raised in Special Civil Application No.3568/86 and other cognate matters which have now been disposed of by judgement and order dated 16th January 1999. This Court while rejecting those petitions in paragraph 4 of the judgement observed as under:

"I have gone through the relevant papers and considered carefully the facts and circumstances of the case. It is a case in which the petitioner and such other persons are employed for a period of 8 months and their services are discontinued for period of four months (monsoon season). The Government has already absorbed the persons who are regularly working in the office for the whole year. But the petitioner and such other persons are working for a particular period and when their services are not required, their services are discontinued. For the purpose of increment and other benefits they are being treated in service and they cannot be treated as regular Class IV employees unless they are required for continuous period of the whole year as servants and the petitioners are required for a particular period and hence their services cannot be regularised as regular Class IV employee."

3. In the present case also the petitioner has raised the very same grievances. Since the question involved in the above matter and in the present petition and since the issue has already been decided by this Court in the above petition, the present petition cannot be entertained.

4. In the result, the petition is rejected. Rule is discharged with no order as to costs. Interim relief stands vacated.

5. It is required to be noted that in view of the interim order granted by this Court since the year 1989, the petitioner continued in service. Under the circumstances, it will be open for the petitioner to make a representation to the respondent to regularise his services, if post is available. If such representation is made, the respondents shall decide the same in accordance with law.

[K.S. JHAVERI, J.]

ar